

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:15-cv-00202-MR**

PSI SERVICES LLC,

Plaintiff,

vs.

JULIUS J. JOHNSON
(d/b/a **CONTRACTORS SEMINARS**),

Defendant.

**CONSENT ORDER GRANTING
PRELIMINARY INJUNCTION**

THIS MATTER is before the Court on the agreement of Plaintiff PSI Services LLC's ("PSI") and Defendant Julius J. Johnson d/b/a Contractors Seminars ("Mr. Johnson") as to PSI's pending Motion for *Ex Parte* Temporary Restraining Order and for Preliminary Injunction [Doc. 3]. Pending final resolution of this lawsuit, subsequent agreement of the parties or modification of this Order by the Court upon motion by either party, **IT IS THEREFORE ORDERED** as follows:

1. Mr. Johnson, including his agents, servants, employees, attorneys, and anyone active concert or participation with him, is enjoined from further copying, duplicating, distributing, displaying, advertising, selling,

adapting, publishing, reproducing, preparing derivative works based on, renting, leasing, offering or otherwise transferring or communicating in any manner, orally or in written, printed, audio, electronic, photographic, machine-readable, or other form, including but not limited to any publication on the Internet, or in written or downloadable electronic materials, any PSI examination delivered by PSI either at its testing centers or through any other delivery channel ("PSI Examination"), or any materials substantially similar thereto, including but not limited to, PSI's copyrighted National Commercial Building Contractor Examination;

2. Mr. Johnson, including his agents, servants, employees, attorneys, and anyone active concert or participation with him, is enjoined from registering for or taking any PSI Examination during the pendency of this litigation.

3. Mr. Johnson's seminars, including but not limited to seminars relating to the National Commercial Building Examination, however and wherever conducted (orally, audio, electronic, video, webcast or otherwise), shall be open to a pre-designated representative of PSI at no charge. Further, Mr. Johnson agrees to take reasonable efforts to allow PSI's pre-designated representative to attend such seminars via www.gotomeeting.com.

4. To the extent that Mr. Johnson continues to maintain a website for or relating to the business of Contractors Seminars, whether the existing website (www.contractorsseminars.com) or any new website, Mr. Johnson shall continue to allow PSI's investigator, or any other person designated by PSI, access to the website, and all materials thereon created by or for Mr. Johnson relating to the business shall remain open and accessible to PSI for the purpose of monitoring compliance with this Order. Subject to the limitations of this Order, Mr. Johnson shall remain free to modify the website and materials thereon, but PSI shall continue to have access to the same portions of the website and materials (provided the materials are still on the website) to which it has had access since the entry of the September 12, 2015 Order Granting Motion for *Ex Parte* Temporary Restraining Order in this case [Doc. 9] (the "Temporary Restraining Order").

5. Prior to selling or providing course materials produced by or for Mr. Johnson for his seminar participants, including any updates or additional modifications to the course materials that have been reviewed and approved by PSI subsequent to the entry of the Temporary Restraining Order as provided for in Paragraph 6 below, Mr. Johnson shall submit said course materials for PSI's review. Upon receipt of any such materials, including any other information that Mr. Johnson may submit for PSI's review, PSI agrees

to review the course materials/information and report any good faith objections regarding the content through counsel within a reasonable time period so as to prevent disruption of Mr. Johnson's seminars and business. The parties agree that fourteen (14) days should provide a reasonable amount of time for PSI to review the course materials/information and respond back to Mr. Johnson.

6. If, after its review, PSI believes in good faith that Mr. Johnson's use of any such future course materials, or other information submitted for review as referred to in Paragraphs 3, 4 and 5 above, would be in violation of any copyright of PSI, as alleged in the Complaint in this action, PSI agrees to promptly communicate to Mr. Johnson, whether directly and/or through counsel, the specific information that PSI believes is in violation of its rights so as to ensure Mr. Johnson is aware of the objectionable information and can avoid the use of same, attempt to obtain PSI's agreement that the material is not objectionable, or seek relief from the Court by motion.

7. Prior to the entry of this Order, PSI has reviewed draft modified course materials, content and other information voluntarily provided by Mr. Johnson after the entry of the Temporary Restraining Order for use in his business going forward. Except as otherwise specifically communicated in writing to Mr. Johnson through counsel prior to the execution of this Order,

PSI agrees that the draft modified materials and information provided prior to the execution of this Order do not violate any right or claim of PSI as asserted in the Complaint, and it is agreed that use by Mr. Johnson of said materials and information after the entry of this Order shall not constitute a violation of any provision of this Order. This provision is not intended to prevent further future modifications by Mr. Johnson to his course materials and information, subject to the terms and conditions of this Order.

8. As provided for in Paragraph 2 of the Temporary Restraining Order, Mr. Johnson shall continue to take all steps necessary to preserve all business records for the past five (5) years relating to the National Commercial Building Examination, specifically including, but not limited to, the following categories of business records: (a) any materials or documents that include any part of PSI's National Commercial Building Examination, or any materials substantively similar thereto; (b) any materials or documents derived from the National Commercial Building Contractor Examination; (c) all test preparation course instruction materials; (d) all online seminar materials; (e) all sample tests and sample questions; (f) all financial records; (g) all records relating to the registration for, or taking of, the National Commercial Building Examination by Mr. Johnson or anyone else acting at his direction or providing information to him; (h) all communications

concerning the disclosure of questions appearing on the National Commercial Building Contractor Examination; and (i) all photographs related to the foregoing.

9. The bond provided for in Paragraph 3 of the Temporary Restraining Order shall be reduced to \$1,000 during the pendency of this Order.

10. The parties agree that nothing contained in this consent Order is intended to, or should be construed as, an acknowledgment of liability or admission to any of the allegations set forth in the Complaint, and Mr. Johnson and PSI specifically reserve their respective rights, claims, and/or defenses that said parties have or may have in this matter.

THE VAN WINKLE LAW FIRM

s/Larry S. McDevitt

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IT IS SO ORDERED.

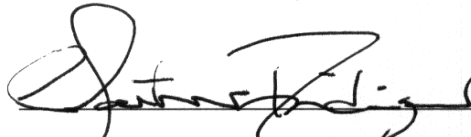
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Signed: October 21, 2015


Martin Reidinger
United States District Judge

